

Task Force on Court Management of Digital Evidence

DRAFT MINUTES

Friday, September 22, 2017
Conference Room 345, Arizona State Courts Building
1501 West Washington Street
Phoenix, AZ 85007

Present: Judge Sam Thumma, chair; Mike Baumstark, David Bodney, Judge Kyle Bryson, Jessica Cortes, Judge David Cunanan, Karen Emerson, Judge Maria Elena Felix, Jeffrey Fine, Judge Charles Gurtler, Aaron Harder, Michael Jeanes, Michael Jeanes, Michael Kurtenbach, Laura Keller, Michael Mitchell, Jamie Sheppard, Judge Don Taylor

Absent/Excused: Colleen Clase, Jennifer Garcia, Inspector Bill Long, Zora Manjencich, James Melendres

Guests: Jennifer Thorson

AOC Staff: Jennifer Albright, Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

Welcome and Opening Remarks. The September 22, 2017, meeting of the Task Force on Court Management of Digital Evidence was called to order at 10:03 a.m. by Sam Thumma, chair. Sam thanked the Task Force members for their efforts in getting their latest draft report content to him so that he, Kay, and Jennifer could further develop the draft.

Minutes. The draft minutes of the August 25, 2017, Task Force meeting were presented for approval. One correction noted to a member's name. Hearing no other corrections to the draft, the minutes were approved as circulated.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Updates and Outreach

Sam updated the members on upcoming presentations and outreach to stakeholders. He reminded the Task Force that the final report and recommendations are due October 1, 2017, and the report will be presented to the Arizona Judicial Council (AJC) on October 11, 2017. Leading up to the AJC presentation, Sam noted a presentation was made to the Committee on Superior Courts by Judges Gurtler and Cunanan, and that Sam presented to the Committee on Limited Jurisdiction Courts with assistance from Jeff Fine and Judge Felix. Both groups expressed support for the recommendations in the current draft report. Sam indicated that he would be presenting to the Superior Court Presiding Judges and AJC the second week of October. In addition, a panel including himself, Judge Gurtler, Mike Baumstark, Jessica Cortes, and Michael Jeanes, would be presenting a session during the annual Leadership Conference in Flagstaff. Michael Jeanes indicated that report would be discussed at the Clerk's Association meeting during the Leadership Conference.

Sam also shared that the State Archives, of which Task Force member Laura Keller is a part, will be hosting the National Association of Government Archives and Records Administrators (NAGARA) Western Forum in October. Ms. Keller is presenting on electronic records, which will include a presentation on the Task Force's work with Sam as a co-presenter.

Finally, Sam asked the Task Force's position on and thoughts about trying to publish the report, or at least a portion thereof, in a scholarly journal. The Task Force supported the effort and Sam will follow up accordingly.

B. R-17-0027: Petition to Modify Rules 15.1 and 15.4, Arizona Rules of Criminal Procedure

Sam mentioned that, on August 31, 2017, the Arizona Supreme Court had referred this Rule Change Petition to the Task Force. The Rules Workgroup will consider this and endeavor to make recommendations to for the Task Force as a whole to consider.

C. Discussion of Draft Report

Sam reviewed the layout of the draft report and current status of the content.

Discussion ensued on the following:

- Discussion on there being a more obvious statement related to self-represented litigants. It was noted that topics addressing needs of and challenges for self-represented litigants are found throughout the report, something more obvious summarizing how the needs of these stakeholders was suggested.
- It was suggested a sentence or two be added to the Formats Workgroup to make more express the need to account for self-represented litigants with limited resources.
- A reminder to ensure that the language of the report related to redaction and sealing not create a new duty for Clerks and the courts. It was discussed how Clerks and court employees cannot give legal advice and cannot assist with case preparation. Accordingly, having information for self-represented litigants is needed to allow Clerks and the courts to facilitate communications with parties of all types, but to not violate any limitation on duties.
- Some edits on language to make it consistent, moving a paragraph from one place to another in a Workgroup report, and a few other stylistic changes were also recommended and agreed upon.
- Suggestion to have language that recommends a statewide form or template for form and communication on what the requirements are for presenting digital evidence at a given local court. References were made to Northern District Court of California (federal) webpage that provides such instructions as well as use of AZCourtHelp.org as examples and locations to share that kind of information.
- Discussion was had on definition of "digital evidence." After discussion, the task force agreed to an amended definition that was incorporated into the final report.
- Addition of recommendation that the Arizona Rules of Juvenile Procedure be amended consistent with the amendments suggested for the Arizona Rules of Criminal Procedure.

D. Next Steps

Sam proposed that members submit to staff any further edits by September 25, 2017. He and staff will then work on integrating edits and finalize the report for submission to the AJC by the October 1, 2017, deadline.

Motion to approve the report subject to the edits discussed during this meeting, with permission for the Chair and AOC staff to make grammatical and stylistic changes or edits needed for the good of the report, but not substantive changes. Motion by: Judge Bryson Second: Judge Felix Motion approved by unanimous vote.

Discussion was had on the Supreme Court's request that the task force review rule petition R-17-0027 and generate a comment or recommendation. Discussion was that in October the Rules Workgroup would meet to review the petition and comments and then the Task Force would meet, most likely by mid-November, to discuss and hopefully reach consensus on a comment.

Finally, the Rules Workgroup will also work with Sam on the rule petition(s), if approval by the AJC and adoption by the Supreme Court of the recommendation in the final report.

III. OTHER BUSINESS

Good of the Order

Sam echoed the praise for the good work of the Task Force and thanked members for their continued participation and hard work.

Call to the Public.

There were no members of the public present in response to the call to the public.

Adjournment: The meeting adjourned at 1:56 p.m.

Next Meeting: TBD, likely late November 2017